

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(National Railroad Passenger Corporation (Amtrak) -  
( Northeast Corridor

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier failed and refused to allow Mr. J. Cortez eight (8) hours of holiday pay for the personal holiday he was permitted to observe on August 30, 1984 (System File NEC-BMWE-SD-1138).

(2) Mr. J. Cortez shall be allowed eight (8) hours of pay at his pro rata rate for the August 30, 1984 personal holiday."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

In the facts and circumstances of this case, Claimant was off on January 4, 1984, for a selected personal holiday. Under Article III of the April 22, 1982 Agreement, employees are entitled to one such holiday, but must meet the qualifying terms of compensated workdays before and after the personal holiday as per the Holiday Agreement. Claimant did not work on January 5, 1984, and was not paid for the personal holiday.

The Organization argues that as Claimant was not paid for January 4, 1984, that day was to be considered as a day of absence. It argued on the property that a second selected day of August 30, 1984, was later designated the personal holiday. Carrier's failure to compensate Claimant was a violation of the Agreement.

It is the Carrier's position that August 30, 1984, is not the Claimant's personal holiday. That day was requested and taken on January 4, 1984, under the provisions of Article III of the April 22, 1982 Agreement. Claimant was due no other personal holiday.

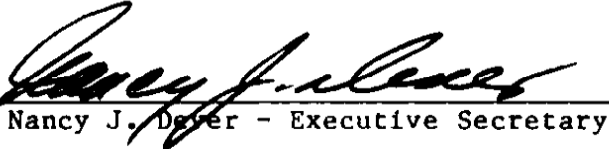
In the case at bar, the Claimant alleges that he took his personal holiday in August, with January just a day of absence from work. The Carrier alleges that Claimant took his personal holiday in January, not August, and was denied compensation due to violating eligibility requirements. Based on this record we agree with the Carrier. The Claimant had timely and properly requested a personal holiday for January 4, 1984, and since he did not meet the qualifications for the holiday by not working on January 5, 1984, he forfeited pay for his personal holiday. Consequently, he had no contractual entitlement to subsequently select another date.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.